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UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

Robert Brier Gwinn,

Plaintiff,

v.

Gale Force, Inc., David A. Wight,
 individually, and the vessel, Nan-Bellis-Jo,
 with her tackle, engines, gear and
 appurtenances, *in rem*,

Defendants.

Civil No. C 08-01080 EDL

DATE: Ex parte
 TIME:

**EX-PARTE APPLICATION FOR ORDERS
 EXTENDING TIMES TO SERVE
 PROCESS, AND MODIFYING ORDER
 SETTING INITIAL C.M.C AND ADR
 DEADLINES**

• Declaration of Arnold I. Berschler

TO THIS HONORABLE COURT:

Plaintiff Robert Brier Gwinn applies ex-parte for the Court's orders: orders extending times to serve process, and modifying the order setting initial Case Management Conference and ADR deadliness. THE GROUNDS ARE: (1) No process has been served upon the defendants. (2) Plaintiff's attorney of record has been and continues to be in active settlement negotiations with the representative of the underwriters for the defendants. (3) The claims adjuster will not be able to submit a report to the underwriter until May 28, 2008. (4) The adjuster stated that the underwriters probably would not respond for 21 to 30 days. (5) Effecting service of process would stop negotiations immediately and would cause extensive discovery before the parties would be in any position to undertake formal ADR. (6) It would be in the interest of conserving the resources of the Court and the parties to attempt informal ADR. (7) The extensions sought are set forth in the below declaration of Arnold I. Berschler.

1 This application is based upon F.R.Civ.P. 1. Plaintiff's attorney advised the defendants'
2 claims adjuster that this application would be made.

3
4 RESPECTFULLY SUBMITTED,
5 DATED: May 22, 2008 BERSCHLER ASSOCIATES, PC.

6
7 /s/ Arnold I. Berschler
8 Arnold I. Berschler, attorneys for
ROBERT BRIER GWINN, plaintiff.

9 DECLARATION OF ARNOLD I. BERSCHLER

10 I, ARNOLD I. BERSCHLER, declare under penalty of perjury that the following allegations
11 are true and correct of my personal knowledge.

- 12 1. The representations of fact within the first four grounds for the application, above stated, are
13 true.
- 14 2. The conclusions set forth in the grounds, four and five, of the application, above stated, are
15 mine and are based upon my experience in other, similar circumstances.
- 16 3. Plaintiff respectfully requests that this Honorable Court issue a superceding Order Setting
17 Initial C.M.C. and ADR Deadlines. It would extend the present Case Management
18 Conference set for June 3, 2008 back 60, some, days and re-set the dates for meeting and
19 conferring, filing a F.R.Civ.P. 26(f) report and Joint ADR certification and stipulation.
- 20 4. Plaintiff respectfully requests that this Honorable Court issue its order extending time for
21 effecting service of process from June 23, 2008 to July 7, 2008. (The action was brought on
22 February 22, 2008.)

23 EXECUTED ON May 22, 2008 at San Francisco, California.

24
25 /s/ Arnold I. Berschler
ARNOLD I. BERSCHLER